

Michael Cukor, Esq.
Vincent E. McGearry, Esq.
MCGEARY CUKOR LLC
7 Dumont Place
Morristown, NJ 07960
Telephone: (973) 339-7367
Facsimile: (973) 200-4837
Email: mcukor@mcgearycukor.com
Local Counsel for Defendant Body Dynamics, Inc.

John T. Wilson, Esq.
Jennifer M. Rynell, Esq.
Leigh Caudle Whitaker, Esq.
WILSON LEGAL GROUP P.C.
16610 Dallas Parkway, Suite 1000
Dallas, Texas 75248
Telephone: (972) 248-8080
Facsimile: (972) 248-8088
Email: eservice@wilsonlegallgroup.com
Pro Hac Vice Attorneys for Defendant Body Dynamics, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PHYTOCEUTICALS, INC,

Plaintiff,

v.

BODY DYNAMICS, INC.,

Defendant.

Civil Action No. 2:20-cv-03549-ES-CLW

Hon. Esther Salas, U.S.D.J.

Hon. Cathy L. Waldor, U.S.M.J.

**DEFENDANT’S NOTICE OF MOTION
TO DISMISS FOR LACK OF PERSONAL
JURISDICTION OR, IN THE
ALTERNATIVE, TO PARTIALLY
DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION**

PLEASE TAKE NOTICE that Defendant Body Dynamics, Inc. (“Defendant”) will move before the Honorable Esther Salas, U.S.D.J., at the next motion date or at such time as the court Orders for an Order dismissing Plaintiff Phytoceuticals, Inc.’s Complaint in its entirety for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2) or, in the alternative, dismissing Plaintiff’s request for a declaratory judgment regarding the validity of U.S. Trademark

Registration No. 5,844,074 for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1).

In support of this Motion, Defendant will rely on the its Brief in Support filed herewith, any supporting documents and declarations, reply papers, and arguments of counsel at any hearing on this Motion.

DATED: June 12, 2020.

Respectfully submitted,

/Michael Cukor/s

Michael Cukor
Vincent McGeary
MCGEARY CUKOR LLC
7 Dumont Place
Morristown, NJ 07960
Telephone: (973) 339-7367
Facsimile: (973) 200-4837
Email: mcukor@mcgearycukor.com
vmcgeary@mcgearycukor.com

John T. Wilson*
Texas Bar No. 24008284
Jennifer M. Rynell*
Texas Bar No. 24033025
Leigh Caudle Whitaker*
Texas Bar No. 24094260
WILSON LEGAL GROUP P.C.
16610 Dallas Parkway, Suite 1000
Dallas, Texas 75248
(T) 972.248.8080
(F) 972.248.8088
(E) eservice@wilsonlegalgroup.com
**Admitted pro hac vice*

Attorneys for Defendant Body Dynamics Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2020, a copy of the foregoing Notice of Motion was filed and served via the Court's CM/ECF system on Plaintiff's counsel:

Paul H. Kochanski
pkochanski@lernerdavid.com
Kendall K. Gurule
kgurule@lernerdavid.com
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
20 Commerce Drive
Cranford, New Jersey 07016

/Michael Cukor/s

Michael Cukor
MCGEARY CUKOR LLC
7 Dumont Place
Morristown, New Jersey 07960
mcukor@mcgearycukor.com